cars which have to ply in British Cochin, Mattancheri and Ernakulam should be issued and the Government of Madras have agreed with that proposition. The Municipalities of Ernakulam and Mattancheri and the Government of Cochin have also agreed. Now it has come to the notice of the Government that there is a great demand for the inclusion of motor cycles also within the class of vehicles that are to be so licensed. Therefore, this amendment is intended only to bring in motor cycles also within that category.

Mr. A. B. Salem *(Mattancheri):* What about rikshaws and cycles?

Mr. M. Sivarama Menon *(Advocate-General):* This is intended for cars plying in British Cochin, Mattancheri and Ernakulam. I don't think that rikshaws and cycles will travel all hese 12 miles.

Mr. A. B. Salem *(Mattancheri):* Is the Government aware that rikshaws are plying between Mattancheri and Ernakulam.

Mr. M. Sivarama Menon *(Advocate-General):* This is a tripartite arrangement. Composite licenses are issued to vehicles which have to go also to British Cochin.

Motion put and carried

Secretary to the Legislative Council: The title of the Bill is the "Municipal Act (Amendment) Bill.

Mr. M. Sivarama Menon *(Advocate-General):* I beg to request that the Hon'ble President be pleased to suspend S. O. 32.

Mr. President: Yes.

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Municipal Act (Amendment) Bill be taken up into consideration.

B. V. K. Menon *(Joint Secretary to Government):* I beg to second it.

Mr. A. B. Salem *(Mattancheri):* Sir, I want to table an amendment. If you take this Bill immediately for consideration it is not possible. I want to include rikshaws and cycles.

Mr. President: You have not given notice of any amendment. The Bill has been in your hands for some time.

Motion put and carried

Clause 2 put and carried

Title and preamble put and carried

Clause 1 put and carried

Mr. M. Sivarama Menon *(Advocate-General):* I beg to move that the Cochin Municipal Act (Amendment) Bill be taken up and finally passed tomorrow.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Motion put and carried

THE COCHIN VERUMPATTAMDARS ACT (AMENDMENT) BILL

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I beg to move that the Cochin Verumpattamdars Act (Amendment) Bill be read in Council.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Mr. M. Sivarama Menon *(Advocate-General):* The purpose of this amending Bill has been clearly set out in the objects and reasons attached to the Bill. Even though my statement now will be a surplusage still by way of refreshing your minds at the time of the consideration of the provisions of this Amendment Bill I will just touch upon the salient features of this amending Bill. The first amendment is only to introduce the word "naduppattamdar" in clause (d) of section 2. The purpose of this is only to exempt naduppattams from the provisions relating to fixity of tenure granted by the Act. You know that under the Revenue Recovery Act the Diwan Peishkar or the Tahsildar has the right to place land on nadupattam. The Devaswam Rent Recovery Rules also contain such a provision.

Mr. K. M. Ibrahim *(Cranganur):* Is that practice followed now?

Mr. M. Sivarama Menon *(Advocate-General):* I think, it is being followed.

The purpose is that if a person commits default of payment of arrears due from him the land may be placed on naduppattam and the person who is prepared to take it will have to deposit the entire arrears. He will be allowed to be in possession of the property for a particular period. If at the expiry of that period the original tenant is able to find out the money and

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pay up the arrears, the property will go back to the original tenant and it is only in cases where after the naduppattam period the original tenant is not in a position to pay the money that the Diwan Peishkar or the Devaswam Commissioner will give sthirapattam and then the original tenant will have no right to get back the property. A doubt was raised whether, the definition of 'verumppattamdar' in the Act will include 'naduppattamdar' also. In order to obviate doubts, this amendment is brought whereby a naduppattamdar will not be included in the definition of 'verumppattamdar'. That is the only purpose. The word naduppattam has been defined in the Devaswam Rent Recovery Rules as well as in the Revenue Recovery Act. Therefore, the word 'nadupattamdar' has not been defined in the Bill.

Then the second amendment relates to one lacuna that got into the original Act. It has been brought to notice in a case which went before the High Court. The Act may lead to doubts whether leases granted by Official Receivers or Receivers during the pendency of the litigation in court will be included in the leases that are entitled to get fixity of tenure. Suppose a partition suit is filed in a court. One party may not be willing to leave the properties in the possession of the other party. So in order to satisfy all parties a Receiver may be appointed. In such a case what the court does is to appoint a Receiver to administer the estate. The Receiver may be able to take the usufructs of the property himself. What he does is to auction it to some others for a certain amount in the sense of a lease or a license. According to the present Act these people may claim fixity. After the case is disposed of the party will not get back the property. The question whether the court can consider itself to be a landlord is not a matter which need detain us. At the time of passing this Act, at any rate, it was not intended to give fixity of tenure to such persons who got only temporary leases from Official Receivers in insolvency proceedings or Receivers appointed by the Court or the District Magistrate under Chapter 12 of the Criminal Procedure Code. The purpose of this amendment is only to see that this Act shall not apply to leases granted by Official Receivers or receivers appointed in particular cases.

There is no provision now for giving any reduction of pattom to a verumpattamdar when a portion of the property which has been demised to him under the lease is acquired by the Government. Let us take a case. Suppose some 20 cents of the property out of 50 cents in the possession of a tenant is acquired by the Government for a public purpose. Then the fixity of tenure with regard to that portion is lost by the verumpattamdar. Then why should he pay the original pattam. The amendment provides that in case of acquisition for public purposes there should be reduction in the pattam payable by him. The extent of the reduction will depend upon the income that the acquired portion bears to the income of the entire holding.

The last amendment is a minor one. In section 13 of the Act it is stated that a landlord shall not be able to claim anything other than what is provided in the Act. The Act does not contain a provision for realisation of interest. Therefore, in one case it was argued that he was not liable to pay interest even though there is a provision to pay interest in the lease deed. Therefore, such contentions are sought to be negatived.

Even though the Act came into Force only on the 22nd of Kumbham last year these are not amendments which will substantially affect the principles involved in the original Act. Therefore, let not my mouth be shut hereafter when I have to answer amendments tabled by Hon'ble Members that the Act is only a recent one and that it would take some time before its full effects are known in practical working. These are all things which this House did not intend at the time of passing the Bill.

Mr. K. M. Ibrahim *(Cranganur):* Sir, though I am completly in agreement with the principles of the Bill I just want some information about the wide practice of this naduppattam method. I am not conversant with the various rule of the land Revenue Manual. There may be a rule like that. But to my knowledge this is very seldom put in into practice.

Mr. M. Sivarama Menon *(Advocate-General):* One case has come to may notice in the course of the past two months. Some officers may do it. Some officers may not do it.

Mr. K. M. Ibrahim *(Cranganur):* My submission is that this concession be granted to the tenant.

Mr. M. Sivarama Menon *(Advocate-General):* We enable by this amendment the revenue officers as well as the Devaswam Commissioner to place lands on nedumpattam. The other is a totally different question. But unless and until there is this amendment you will not be in a position to press that point.

Mr. K. M. Ibrahim *(Cranganur):* My plea is only that instead of having such a land revenue recovery in print only it may be more generally exercised by the Department because it is a protective measure for the tenant so that the idea is land must be more liberally distributed among the tenants of Cochin. My submission to the Government is that a more liberal

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recourse to this nadupattam system is essential in the interests of a more equitable distribution of land among the tenants of the State. If the Government all on a sudden take coercive steps and sell the lands of the tenant which is the order of the day it will be very hard. I can assert on the floor of this House that in 99 cases out of 100 the property of the helpless tenant is sold by the Government for recovering land revenue. My submission to this House is that instead of simply having a dead rule like this which is more honoured in its breach than in its observance Government may be pleased to exercise this kind of land recovery on a more frequent basis rather than leave it simply in cool print and having recourse to other methods. I support the bill.

Motion put and carried

Secretary to the Legislative Council: The title of the Bill is "The Cochin Verumpattamdars Act (Amendment) Bill".

Mr. M. Sivarama Menon *(Advocate-General):* I request the President be pleased to suspend S. O. 32.

Mr. President: Yes.

Mr. M. Sivarama Menon *(Advocate-General):* I move that the Cochin Verumpattamdars Act (Amendment) Bill be taken into consideration.

Mr. B. V. K. Menon *(Joint Secretary to Government):* I second it.

Clause 2 of the Bill put and carried

Mr. President: The question before the House is that Clause 3 stands part of the Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I do not wish to move my amendment in view of similar amendment moved by my friend, Mr. Narayana Menon.

Mr. K. Narayana Menon *(Mulakunnathukavu):* Mr. President, Sir, since submitting my amendment in time I had the privilege of discussing this matter with the Hon'ble Member for law and being convinced that the amendment in another form will better serve the purpose I have tabled an amendment in this form to be added as proviso to section 3. "Provided that this Act shall apply to a lease granted by the Official Receiver or Receiver, if it is a renewal or the result of an attornment of a lease held by a verumpattamdar who would have acquired fixity of tenure under section 4 at the commencement of this Act". My submission is this. This is an amendment absolutely essential for the working of justice in the case of a larger number of properties now pending before District Courts. I have seen that these new leases granted by the Official Receivers are only really renewals or attornments by the tenants. It will be unfair and uncharitable if the legislature were to take away the fixity that these tenant would otherwise have enjoyed but for stepping in of the Court Receiver as an intermediary. My respectfull submission is that the Government may be pleased to accept the amendment.

There are two other amendments of mine which I do not press now because those suits are pending before the District Court. They are O. S. 68 to 71 and E. P. 7/09. Of course, we can wait and see how the highest court in the land is going to dispose of the suits. This is the only amendment that I propose to move and I submit that this may be accepted as an essential amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Sir, I second this amendment and I have only to add one or two words. I had the privilege of bringing forward this amendment before this House during the original stage of the Bill but unluckily that did not get through. I am glad that both the amendments one from the Government and the other from the Hon'ble Member for Mulakunnathukavu have come up here. I only pray that this amendment may be kindly accepted by all the members of this House unlike its fate that we had in Makaram 1118.

Mr. M. Sivarama Menon *(Advocate-General):* I have no objection to accept the amendment in the present modified form. The amendment only seeks to say that if a party to a suit had already given a verumpattam lease even prior to the institution of the suit the fact that the Receiver renewed it should not take away the permanency that would have fallen upon that tenant. Renewals or attornments of existing leases which would have been entitled to fixity under section 4 of the Act will continue to have fixity even if the Receiver come into the way. Therefore, that amendment is safe Enough. The amendment in the modified form is the result of joined deliberation by me and the Hon'ble Member. I welcome this opportunity to say that in such a complicated matter as the Verumpattamdars Act whenever amendments are tabled I would like to have a close discussion with the Hon'ble Members.

The House rose for the day at 5 p.m.

N. S. RADHAKRISHNA SARMA
Secretary to the Council

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APPENDIX I

THE COCHIN MUNICIPAL ACT (AMENDMENT) BILL

Preamble.—Whereas it is necessary further to amend the Cochin Municipal Act, XVIII of 1113; it is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin Municipal (Amendment) Act of 11 and shall come into force at once.

2. *Amendment of section 93A.*—In section 93 A of the Cochin Municipal Act, XVIII of 1113—

(*a*) between the words "motor cars" and "on" the words "and motor cycles" shall be inserted;

(*b*) between the words "cars" and "ply" the words "and cycles" shall be inserted;

(*c*) in clause (1) for the word "cars" the words "motor cars and motor cycles" shall be substituted;

(*d*) in clause (2) after the words "motor cars" the words "and motor cycles" shall be added; and

(*e*) for the explanation, the following shall be substituted, namely.—

"*Explanation.*—"Motor cars" and "Motor cycles" in this section shall have the meanings assigned to them in the Cochin Motor Vehicles Act, VIII of 1116."

Statement of Objects and Reasons

Under section 93 A of the Cochin Municipal Act provision has been made for the issue of composite licenses only in respect of motor cars. It is considered necessary to extend the arrangement to motor cycles also. Hence the Bill.

APPENDIX II

THE COCHIN VERUMPATTAMDARS ACT (AMENDMENT) BILL

Preamble.—Whereas it is necessary further to amend the Cochin *Verumpattamdars* Act VIII of 1118 ; it is hereby enacted as follows.—

1. *Short title and commencement.*—This Act may be called the Cochin *Verumpattamdars* (Amendment) Act, of 11 and shall come into force at once.

2. *Amendment of section 2.*—In clause (*d*) of section 2 of the Cochin *Verumpattamdars* Act, VIII of 1118, hereinafter referred to as the Act, after the word "*Kudikidappukaran*" the words "or a *Naduppattamdar*" shall be and shall always be deemed to have been added.

3. *Amendment of section 3.*—For clause (*b*) of section 3 of the Act, the following shall be and shall always be deemed to have been substituted, namely,—

"(*b*) leases granted by Official Receivers or Receivers appointed by courts or by mortgagees or by any person holding under or deriving title from such Receivers or mortgagees";

4. *Amendment of section 5.*—To sub-section (1) of section 5 of the Act, the following proviso shall be and shall always be deemed to have been added, namely,—

"Provided that a *verumpattamdar* shall, where a portion of the land comprised in his holding is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, be entitled to an abatement in the rent in the same proportion as the yield from the portion acquired bears to the yield from the entire holding."

5. *Amendment of section 13.*—In section 13 of the Act, after the words "the provisions of this Act", the words "except interest, if any, thereon" shall be and shall always be deemed to have been added.

Objects and Reasons

The Cochin *Verumpattamdars* Act does not exclude leases granted by Official Receivers or Receivers appointed by Courts from its purview. The High Court has drawn the attention of Government to this lacuna.

2. The term "usufructuary mortgagee" as defined in section 59 (*d*) of the Transfer of Property Act does not include all mortgagees with possession of the mortgaged property derived under the terms of the mortgage. The mortgagor, on redemption of the mortgage, has to be given back possession of the property in cases where such possession was conveyed to him under

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the mortgage. As the Act now stands, it may be contended that leases granted by a person who holds the property under a mortgage by conditional sale or an English mortgage or an anomalous mortgage have fixity of tenure under the Act. It has not been intended that such lessees should have fixity of tenure as such a legislation will defect the mortgagor.

3. *Naduppattams* are permitted under the provisions of the Revenue Recovery Act and the Devaswam Rent Recovery Rules. Lands are placed on *Naduppattam* for a specified period for the collection of the arrears due from a defaulter. The defaulter can, after the lapse of the period of *Naduppattam*, regain possession of the lands of which he has been temporarily divested by payment of the arrears. The definition of the term "*Verumpattamdar*" under the Act may include such *Naduppattamdars* as well. This will prejudice the original tenant seriously.

Hence the Bill.

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